

**REMARKS**

**I. Status of the Claims**

By this Amendment, claims 1-27 have been amended and new claim 28 has been added. Thus, claim 28 is currently pending.

Applicants respectfully submit that no new matter was added by this Amendment. Support for new claim 28 can be found in original claim 25. Specifically, new claim 28 further defines the substituents originally recited in formula (I) of claim 25 as follows:

X is -O-;

R<sub>1</sub> is chosen from hydrogen, and a methyl radical;

R<sub>2</sub> is chosen from hydrogen, and a -CH<sub>2</sub>C<sub>6</sub>H<sub>4</sub>p-OH radical; and

R<sub>3</sub> is chosen from hydrogen, and linear and branched, saturated C<sub>1</sub>-C<sub>6</sub> hydrocarbon-based radicals.

Accordingly, this amendment introduces no new matter to the pending claim.

**II. Withdrawal of Terminal Disclaimers**

In response to the rejection of claims 1 and 27 under the judicially created doctrine of obviousness-type double patenting over claim 1 of U.S. Patent No. 6,585,962, and the provisional rejection of claims 1-4, 8-14, 21, 23, and 27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-13, 18-21, and 23 of copending Application No. 10/086,248, Applicants filed a Terminal Disclaimer on October 4, 2004. Further to the cancellation of the subject matter of claims 1-4, 8-14, 21, 23, and 27 in this Amendment, Applicants submit that the Terminal Disclaimer is no longer appropriate in the present case.

Accordingly, Applicants submit herewith a Petition under 37 C.F.R. §1.182 to Withdraw a Recorded Terminal Disclaimer. Since the subject matter of claim 25 was

never rejected by the Examiner under the judicially created doctrine of obviousness-type double patenting, and since the only pending claim, i.e. claim 28, is directed to subject matter originally presented in claim 25, Applicants request the nullification of the previously recorded Terminal Disclaimer filed on October 4, 2004.

### **III. Rejections Under 35 U.S.C. § 102(b)**

The Examiner rejected claims 1-20 and 25-27 under 35 U.S.C. § 102(b) as being anticipated by WO 99/49837 ("Philippe"). *Office Action* at p. 2. The Examiner contends that Philippe discloses "a polyamino acid having the same general formula as claimed by applicants." *Id.* The Examiner alleges that the compound taught by Philippe would inherently treat wrinkles as claimed. *Id.* at p. 3.

Claim 28, the only pending claim in this application, is directed to a method of reducing, fading out and/or smoothing out wrinkles and/or fine lines in skin, comprising applying to the skin of a person in need thereof a composition as recited in the claim. See claim 28 (emphasis added). Philippe, on the other hand, is directed to the treatment of keratin fibers, and fails to teach the use of the disclosed poly-aminoacid of formula (I) for the treatment of skin. This can be seen by reviewing the disclosure of U.S. Patent No. 6,656,458, which is related to Philippe, and was submitted in the Information Disclosure Statement filed April 13, 2004. Accordingly, Philippe fails to teach each and every limitation of claim 28, and thus this claim is novel over the teachings of this reference.

**IV. Rejections Under 35 U.S.C. § 103(a)**

The Examiner rejected claims 21-24 under 35 U.S.C. § 103(a) as being anticipated by WO 99/49837 ("Philippe") in view of US 2002/0164360 A9 ("Philippe '02"). *Office Action* at p. 3. This rejection was rendered moot by the cancellation of claims 1-27.

**V. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By:



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